IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**
**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

**WRIT PETITION NO : 10002 of 2004**

Between:

B. Pratap Reddy S/o. Peddi Reddy
R/o. A.S. Pet Village and Mandal, Nellore District.

**..... PETITIONER**

AND

1 Government of A.P., rep. by its Secretary, Home Dept., Secretariat, Hyd.
2 Director General and Inspector General of Police, A.P., Hyderabad.
3 Deputy Inspector General of Police Guntur Range, Guntur.
4 Superintendent of Police, Nellore.
5 Deputy Superintendent of Police, Armed Reserve, Nellore.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the orders of the A.P., Administrative Tribunal, Hyd in O.A.No. 5733/1999 Dt. 23.3.2004 as illegal, contrary to law etc., while also declaring the imougned orders of the 4th Respondent in C.No.158/PR/96, Dated 11.9.1999 and the further action of the Respondents in seeking to continue the Departmental enquiry against him even after his acquittal in C.C.No.353/1996 on the file of the Court of the Judicial Magistrate of First Class, Atmakur as illegal, arbitrary, contrary to the directions of the A.P. Administrative Tribunal, Hyd in O.A.No. 3672/1999, Dt. 1.7.1999 with a consequential direction to the Respondents to drop the Departmental enquiry against him and settle all his monetary and other claims etc., and grant such other just and consequential relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.V.V.L.N.SARMA**

**Counsel for the Respondent No.: GP FOR HOME**

The Court Made the Following :

**THE HON'BLE SRI JUSTICE G.BIKSHAPATHY**

**AND**

**THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY**

**WRIT PETITION NO.10002 OF 2004**

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**ORDER:** (per the Hon'ble Sri justice G.Bikshapathy)

This writ petition is filed challenging the order passed by the A.P. Administrative Tribunal (for short "the Tribunal") in O.A.No.5733 of 1999 along with M.A.No.939 of 2004 dated 23.03.2004.

2. The petitioner approached the Tribunal seeking declaration that the impugned orders of the fourth respondent-Superintendent of Police in C.No.158/PR/96, dated 11.09.1999 and further action of the respondents in seeking to continue the departmental enquiry against the petitioner even after his acquittal in C.C.No.353 of 1996 on the file of the Court of the Judicial Magistrate of First Class, Atmakur as illegal, arbitrary and contrary to the directions of the Tribunal in O.A.No.3672 of 1999 dated 01.07.1999 and further consequential direction to quash the proceedings.

3. The petitioner was working as Police Constable in the office of the Superintendent of Police (Vigilance), Tirupati. Departmental proceedings were initiated by issuing a charge sheet dated 11.09.1999. Earlier to that, a criminal case was filed in C.C.No.353 of 1996, for the offences punishable under Sections 448, 352, and 290 IPC. However, the criminal court, by Judgment dated 02.02.1998, acquitted the petitioner.

4. It is the grievance of the petitioner that in view of the acquittal by the criminal Court, the department is precluded from proceeding with the same and

identical charges in departmental enquiry, and therefore, the departmental proceedings initiated against him are wholly incompetent and illegal.

5. The Tribunal, after considering the matter, dismissed the application, against which the present writ petition is filed.

6. Mr.V.V.L.N.Sarma, learned counsel for the petitioner, however, submits that the order of the Tribunal is wholly unsustainable inasmuch when the competent Criminal Court acquitted and exonerated the petitioner on criminal charges, there could not be any departmental enquiry on the very same charges and therefore, it is contrary to the principles laid down by the Supreme Court in **CAPT PAUL ANTHONY V. BHARATH GOLD MINES LIMITED AND ANOTHER .** He further submits that in respect of another police constable, who was involved in a more grave offence and misconduct, after the acquittal, no further disciplinary proceedings were taken in pursuance of the order passed by the Tribunal in O.A.3672 of 1999 dated 01.07.1999, but in the instant case, the Tribunal failed to grant very same relief as was granted in the above O.A.

7. Therefore, the Tribunal had adopted discriminatory attitude in the case of the petitioner by dismissing the application. We have heard the learned Government Pleader for Home on this aspect also.

8. The matter is no more *res integra* and it is now made clear by the Supreme Court that the mere pendency of criminal case does not preclude the authorities from proceeding with departmental enquiry and there is no blanket prohibition as such under the rules. In the instant case, the Tribunal has clearly noted that there was slight difference between the charges in the criminal case and departmental proceedings. After considering this aspect, the Tribunal refused to interfere with the same.

9. We do not find any flaw in the said finding of the Tribunal. When the charges are different, it is always open for the department to proceed with the enquiry.

10. However, the learned counsel for the petitioner further submits that the Tribunal also refused to grant relief as was prayed in M.A.No.939 of 2004, wherein the relief was sought for grant of increments. The Tribunal, noting that

the grant of increment has nothing to do with the main relief sought in the O.A., refused to grant the relief as prayed for.

11. Under those circumstances, we find no merit in this writ petition. Accordingly, the writ petition is dismissed. However, we leave it open to the petitioner to take separate proceedings with regard to the grant of increments, if so chooses. We make it further clear that the departmental authorities, while proceeding with the matter, shall not be influenced by any observations or findings recorded by the Tribunal on merits of the case.

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G. BIKSHAPATHY, J

06TH JULY, 2004.

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B.SESHASAYANA REDDY, J

YCR

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

1 Government of A.P., rep. by its Secretary, Home Dept., Secretariat, Hyd.
2 Director General and Inspector General of Police, A.P., Hyderabad.
3 Deputy Inspector General of Police Guntur Range, Guntur.
4 Superintendent of Police, Nellore.
5 Deputy Superintendent of Police, Armed Reserve, Nellore.

6. 2 CCs to GP for Home, High Court Bldgs, Hyderabad (OUT)

7. 2 C.D copies.